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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,139	12/29/2000	William E. La Macchia	002092-0208	8419
20572	7590	06/23/2004	EXAMINER	
GODFREY & KAHN S.C. 780 NORTH WATER STREET MILWAUKEE, WI 53202			DIXON, THOMAS A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/752,139

Applicant(s)

LA MACCHIA ET AL.

Examiner

Thomas A. Dixon

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/18/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims Directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987). Thus the structural limitations of claims 1-8, including a database, a component bundler (processor), an interface are disclosed in Tagawa, Jafri et al and Lynch et al as described herein. Also as described the limitations of the claim do not distinguish the claimed apparatus from the prior art.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the phrase "appropriate parameters" is unclear.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 16 are rejected under 35 U.S.C. 102(a) as being anticipated by

Toursource and LeasureShoppe

As per Claims 1, 16.

Toursource and LeasureShoppe disclose:

providing a bulk inventory and rate database as part of an inventory and rate management system, see references to airline databases Apollo, Sabre and room databases;

a component bundler selectively choosing and bundling at least two of the plurality of individual travel products into a vacation package, see references to departure and return flights;

an interface between the travel product inventory and rate management system and a vacation package seller and the inventory and rate management system, see references to booking.

4. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Jafri et al (5,832,454).

As per Claims 1-8.

Jafri et al discloses a database, see figure 2, a component bundler, see figure 1 PC, and an interface, see PC.

5. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Tagawa (WO 97/17680).

As per Claims 1-8.

Tagawa discloses a database, see figure 2c 128, a component bundler, see 112, and an interface, see 110.

6. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lynch et al (6,119,094).

As per Claims 1, 16.

Lynch et al (094) discloses:

providing a bulk inventory and rate database as part of an inventory and rate management system, see figure 1 (inventory data structure);

a component bundler selectively choosing and bundling at least two of the plurality of individual travel products into a vacation package, see figure 1 (set of low-priced alternatives);

an interface between the travel product inventory and rate management system and a vacation package seller and the inventory and rate management system, see column 8, lines 56-65.

As per Claim 2.

Lynch et al (094) further discloses the bundling is performed by a dynamic component at the time when the vacation package seller performs the step of selecting the vacation package, see column 7, line 8 – column 8, line 65.

As per Claims 9, 17.

Lynch et al (094) discloses loading the bulk inventory and rate database with inventory and rate information for a plurality of individual travel products provided by a plurality of travel product suppliers, see figure 3

As per Claim 10, 18.

Lynch et al (094) further discloses the bundling is performed by a dynamic component at the time when the vacation package seller performs the step of selecting the vacation package, see column 7, line 8 – column 8, line 65.

As per Claims 3, 11, 19.

Lynch et al (094) further discloses the bundling is performed prior to the time when the vacation package seller performs the step of selecting the vacation package, see column 1, lines 22-34.

As per Claims 4, 12.

Lynch et al (094) further discloses a customer services module and allowing the vacation package seller to access the content through the interface, see column 8, lines 33-65.

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As per Claims 5, 13, 20.

Lynch et al (094) further discloses allowing the vacation package seller to book the vacation through the interface, see column 8, lines 59-65.

As per Claims 6, 14.

Lynch et al (094) further implies an accounting services module that manages the payment of the travel product supplier by the vacation package seller, see column 8, lines 59-65.

As per Claims 7, 15


Lynch et al (094) further discloses a marketing management module and access to the marketing module by at least one of the travel product suppliers, see column 4, lines 48-51.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Thomas A. Dixon  
Primary Examiner